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SENATE BILL 340

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

James G. Taylor

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR ALTERNATIVE UNIT VALUATION  
OF PROPERTY USED IN THE PROCESSING, GATHERING, TRANSMISSION OR  
DISTRIBUTION OF OIL, GAS, CARBON DIOXIDE OR LIQUID  
HYDROCARBONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-36-27 NMSA 1978 (being Laws 1975,  
Chapter 165, Section 8, as amended) is amended to read:

"7-36-27. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS,  
SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING,  
TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL,  
NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS.--

A. All pipelines, tanks, sales meters and plants  
used in the processing, gathering, transmission, storage,  
measurement or distribution of oil, natural gas, carbon dioxide

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1 or liquid hydrocarbons subject to valuation for property  
2 taxation purposes shall be valued in accordance with the  
3 provisions of this section.

4 B. As used in this section:

5 (1) "construction work in progress" means the  
6 total of the balances of work orders for pipelines, plants,  
7 large industrial sales meters and tanks, in the process of  
8 construction on the last day of the preceding calendar year,  
9 exclusive of land and land rights and equipment, machinery or  
10 devices that are used or are available for use to construct  
11 pipelines, plants, large industrial sales meters and tanks but  
12 that are not incorporated into the pipelines, plants, large  
13 industrial sales meters or tanks;

14 [~~(1)~~] (2) "depreciation" means straight line  
15 depreciation over the useful life of the item of property;

16 [~~(2)~~] (3) "direct customer distribution  
17 pipeline" means a low or intermediate pressure distribution  
18 system pipeline of four inches or smaller diameter situated in  
19 urban areas;

20 (4) "economic obsolescence" means, with  
21 respect to valuation for property taxation purposes, loss in  
22 value of a property caused by unfavorable economic influences  
23 or factors outside of the property; "economic obsolescence" is  
24 a loss in value in addition to a loss in value attributable to  
25 physical depreciation;

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1                   (5) "functional obsolescence" means, with  
2 respect to valuation for property taxation purposes, loss in  
3 value of a property caused by functional inadequacies or  
4 deficiencies caused by factors within the property; "functional  
5 obsolescence" is a loss in value in addition to a loss in value  
6 attributable to physical depreciation;

7                   [~~(3)~~] (6) "large industrial sales meter" means  
8 a sales meter having an installed tangible property cost in  
9 excess of two thousand five hundred dollars (\$2,500);

10                   [~~(4)~~] (7) "other justifiable factors"  
11 includes, but is not limited to, functional obsolescence and  
12 economic obsolescence;

13                   [~~(5)~~] (8) "pipeline" means all pipe,  
14 appurtenances and devices used in systems for gathering,  
15 transmission or distribution, but excludes sales meters, a  
16 pipeline operated exclusively for and constituting a part of a  
17 plant and a direct customer distribution pipeline;

18                   [~~(6)~~] (9) "plant" means any refinery, gasoline  
19 plant, extraction plant, purification plant, compressor or  
20 pumping station or similar plant, including all structures,  
21 equipment, pipes and other related facilities, excluding  
22 residential housing, office buildings and warehouses;

23                   [~~(7)~~] (10) "sales meter" means the meter,  
24 regulator and all appurtenances and devices used for measuring  
25 sales to customers and includes the service pipe to the

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1 customer's property line from the point of connection with the  
2 pipeline;

3 [~~(8)~~] (11) "schedule value" means a fixed  
4 value of an individual property unit within a mass of similar  
5 or like units established by determining the total tangible  
6 property cost of a substantial sample of such property and  
7 deducting therefrom an average related accumulated provision  
8 for depreciation and allocating a proportionate part of the  
9 remainder to individual taxable property units;

10 [~~(9)~~] (12) "tangible property cost" means the  
11 actual cost of acquisition or construction of property,  
12 excluding construction work in progress, including additions,  
13 retirements, adjustments and transfers, but without deduction  
14 of related accumulated provision for depreciation, amortization  
15 or other purposes and excluding any amount attributable to oil  
16 or gas reserves dedicated to such item of property; and

17 [~~(10)~~] (13) "tank" means any storage tank or  
18 container, other than a natural reservoir, for storage that is  
19 not a component part of [~~any~~] a plant [~~and~~

20 ~~(11) "construction work in progress" means the~~  
21 ~~total of the balances of work orders for pipelines, plants,~~  
22 ~~large industrial sales meters and tanks in the process of~~  
23 ~~construction on the last day of the preceding calendar year,~~  
24 ~~exclusive of land and land rights and equipment, machinery or~~  
25 ~~devices used or available to construct pipelines, plants, large~~

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1 ~~industrial sales meters and tanks but which are not~~  
2 ~~incorporated therein].~~

3 C. Sales meters, other than large industrial sales  
4 meters, shall be valued as follows:

5 (1) the ~~[division]~~ department may periodically  
6 determine the average tangible property cost of a substantial  
7 sample of sales meters in general use in the state;

8 (2) such average tangible property cost shall  
9 then be reduced by the average related accumulated provision  
10 for depreciation applicable to the sample of sales meters; and

11 (3) from the ~~[foregoing]~~ determinations  
12 pursuant to Paragraphs (1) and (2) of this subsection, a  
13 schedule of value for sales meters for property taxation  
14 purposes shall be determined and set forth in a ~~[regulation]~~  
15 rule adopted ~~[pursuant to Section 7-38-88 NMSA 1978]~~ by the  
16 department.

17 D. Pipelines, direct customer distribution  
18 pipelines, large industrial sales meters, tanks and plants  
19 shall be valued as follows:

20 (1) the valuation authority shall first  
21 establish the tangible property cost of each item of property;

22 (2) from such tangible property cost shall be  
23 deducted the related accumulated provision for depreciation and  
24 any other justifiable factors ~~[which]~~ that further affect the  
25 tangible property value of each item of property; and

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1 (3) notwithstanding the [~~foregoing~~]  
2 determination of value for property taxation purposes in  
3 Paragraphs (1) and (2) of this subsection, the value for  
4 property taxation purposes of each item of property valued  
5 under this subsection shall not be less than twenty percent of  
6 the tangible property cost of such item of property.

7 E. Construction work in progress shall be valued at  
8 fifty percent of the amount expended and entered upon the  
9 accounting records of the taxpayer as of December 31 of the  
10 preceding year as construction work in progress.

11 F. Each item of property having a taxable situs in  
12 the state and valued under this section shall have its net  
13 taxable value allocated to the governmental units in which the  
14 property is located.

15 G. A reduction in value asserted by a taxpayer as  
16 attributable to economic obsolescence or functional  
17 obsolescence shall contain an obsolescence factor along with a  
18 brief statement of the facts that support the reduction,  
19 together with supporting documentation. The documentation may  
20 include items such as monthly throughput volumes from the prior  
21 year; comparisons to a documented industry standard;  
22 comparisons to a close competitor; and an engineer's or  
23 appraiser's valuation. The department may adopt rules that  
24 include other types of objective evidence of functional  
25 obsolescence or economic obsolescence.

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1           H. If the department determines that a taxpayer has  
2 not established, based on the brief statement of facts and the  
3 supporting documentation provided, that the reduction for  
4 functional obsolescence or economic obsolescence is in  
5 accordance with the law or rules adopted by the department, the  
6 department shall notify the taxpayer of the department's  
7 determination in writing setting forth the reasons for its  
8 determination and specifying the supporting information that  
9 the department requires. The department shall provide the  
10 notice in sufficient time to permit the taxpayer to address the  
11 deficiencies before the department issues a valuation notice to  
12 the taxpayer.

13           ~~[G.]~~ I. The ~~[division]~~ department shall adopt  
14 ~~[regulations under Section 7-38-88 NMSA 1978]~~ rules to  
15 implement the provisions of this section."

16           Section 2. Section 7-38-8 NMSA 1978 (being Laws 1973,  
17 Chapter 258, Section 48, as amended) is amended to read:

18           "7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES  
19 FOR FAILURE TO REPORT.--

20           A. All property subject to valuation for property  
21 taxation purposes by the department shall be reported annually  
22 to the department. The report required by this subsection  
23 shall be made by the owner of the property or such other person  
24 as may be authorized by ~~[regulations]~~ rules of the department.  
25 The report shall be in a form and contain the information

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1 required by [~~regulations~~] rules of the department. It shall be  
2 made not later than the last day of February in the tax year in  
3 which the property is subject to valuation. Claims of economic  
4 obsolescence or functional obsolescence on properties not  
5 regulated by the federal government shall be made at the time  
6 the annual report is filed; however, the department shall  
7 accept supplements to the annual report containing claims of  
8 economic obsolescence or functional obsolescence on properties  
9 regulated by the federal energy regulatory commission or its  
10 successor agency at the time the annual commission report  
11 becomes available, but no later than April 15 of the tax year  
12 following the year in which the property was subject to  
13 valuation, or at a later time allowed by an extension granted  
14 by the department. In the case of the failure or refusal to  
15 file the report required under this subsection, the department  
16 shall determine the value of the property subject to valuation  
17 from the best information available.

18 B. Except as provided in Subsection D of this  
19 section, all property subject to valuation for property  
20 taxation purposes by the county assessor shall be reported as  
21 follows:

22 (1) property valued in the 1974 tax year by  
23 the county assessor need not be reported for any subsequent tax  
24 year unless required to be reported under Paragraph (3) of this  
25 subsection;

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1 (2) property not valued in the 1974 tax year  
2 by the county assessor but that becomes subject to valuation by  
3 the county assessor in any subsequent tax year shall be  
4 reported to the county assessor not later than the last day of  
5 February of the tax year in which it becomes subject to  
6 valuation, but such property need not be reported for any year  
7 subsequent to the year in which initially reported unless  
8 required to be reported under Paragraph (3) of this subsection;

9 (3) property once valued by a county assessor  
10 in a tax year, but which is not valued for a year subsequent to  
11 the year of initial valuation because it is not subject to  
12 valuation for that subsequent year by the county assessor,  
13 shall be reported to the county assessor not later than the  
14 last day of February in a tax year in which it again becomes  
15 subject to valuation by the county assessor; and

16 (4) reports required under Paragraphs (2) and  
17 (3) of this subsection shall be in a form and contain the  
18 information required by [~~regulations~~] rules of the department.

19 C. Not later than the last day of February of each  
20 tax year, every owner of real property who made, or caused to  
21 be made, in the preceding calendar year improvements costing  
22 more than ten thousand dollars (\$10,000) to that real property  
23 shall report to the county assessor the property improved, the  
24 improvements made, the cost of the improvements and such other  
25 information as the department may require.

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1           D. Manufactured homes, livestock and land used for  
2 agricultural purposes shall be reported for valuation for  
3 property taxation purposes to the county assessor at the times  
4 and in the manner prescribed under Sections 7-36-26, 7-36-21  
5 and 7-36-20 NMSA 1978 and [~~regulations~~] rules promulgated by  
6 the department.

7           E. Property subject to valuation by the county  
8 assessor for property taxation purposes and improvements to  
9 such property that are required to be reported under Subsection  
10 C of this section shall be reported to the county assessor of  
11 the county in which the property is required to be valued under  
12 Section 7-36-14 NMSA 1978. Reports shall be made either by the  
13 owner of the property, the owner's authorized agent or any  
14 person having control or management of the property and shall  
15 be in a form and contain the information required by  
16 [~~regulations~~] rules of the department.

17           F. Reports required by this section shall be made  
18 by the declarant under oath, and the [~~director~~] secretary,  
19 employees of the department, the assessor and [~~his~~] the  
20 assessor's employees are empowered to administer oaths for this  
21 purpose.

22           G. [~~Any~~] A person who intentionally refuses to make  
23 a report required [~~of him~~] under the provisions of Subsection  
24 A, B or C of this section or who knowingly makes a false  
25 statement in a report required under the provisions of

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1 Subsection A, B or C of this section is guilty of a misdemeanor  
2 and upon conviction shall be punished by the imposition of a  
3 fine of not more than one thousand dollars (\$1,000).

4 H. ~~[Any]~~ A person who fails to make a report  
5 required ~~[of him]~~ under the provisions of Subsection A or B of  
6 this section is liable for a civil penalty in an amount equal  
7 to five percent of the property taxes ultimately determined to  
8 be due on the property for the tax year or years for which ~~[he]~~  
9 the person failed to make the required report.

10 I. ~~[Any]~~ A person who intentionally refuses to make  
11 a report required ~~[of him]~~ under the provisions of Subsection A  
12 or B of this section with the intent to evade any tax or who  
13 fails to make a report required ~~[of him]~~ under the provisions  
14 of Subsection A or B of this section with the intent to evade  
15 any tax is liable for a civil penalty in an amount equal to  
16 twenty-five percent of the property taxes ultimately determined  
17 to be due on the property for the tax year or years for which  
18 ~~[he]~~ the person refused or failed to make the required report.

19 J. ~~[Any]~~ A person who is required to make a report  
20 under the provisions of Subsection C of this section and who  
21 fails to do so is personally liable for a civil penalty in an  
22 amount equal to the greater of twenty-five dollars (\$25.00) or  
23 twenty-five percent of the difference between the property  
24 taxes ultimately determined to be due and the property taxes  
25 originally paid for the tax year or years for which the person

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1 failed to make the required report. This penalty shall not be  
2 considered a delinquent property tax, and the provisions of the  
3 Property Tax Code for the enforcement and collection of  
4 delinquent property taxes through the sale of the property do  
5 not apply. However, the county treasurer may use all other  
6 methods provided by law to collect the property tax or penalty  
7 due. Notwithstanding any other provision of the Property Tax  
8 Code, amounts collected pursuant to the penalty provided by  
9 this subsection shall be distributed among jurisdictions  
10 imposing tax on the property in the same proportion as the  
11 amount of tax ultimately determined to be due for the  
12 jurisdiction bears to the total due for all such jurisdictions.

13 K. The civil penalties authorized under Subsections  
14 H and I of this section shall be imposed and collected at the  
15 time and in the manner that the tax is imposed and collected.  
16 In order to assist in the imposition and collection of the  
17 penalties, the persons having responsibility for determining  
18 the value of the property shall make an entry in the valuation  
19 records indicating the liability for any penalties due under  
20 this section.

21 L. For the purposes of this section:

22 (1) [~~"improvements"~~] "improvement" means the  
23 construction of any new structure permanently affixed to the  
24 land or the repair, rehabilitation or alteration of an existing  
25 structure permanently affixed to the land that, for property

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1 used for any commercial purpose, is required or allowed to be  
2 capitalized under the Internal Revenue Code and, for other  
3 properties, any similar construction, repair, rehabilitation or  
4 alteration; and

5 (2) "owner of real property" includes every  
6 owner of improvements who does not own the land upon which the  
7 improvements are made."

8 Section 3. APPLICABILITY.--The provisions of this act  
9 apply to the 2007 and subsequent property tax years.

10 Section 4. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2007.